IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Bail Appl..No. 7760 of 2007()

CRIME 93/99 OF CHAVAKAD POLICE STATION

PETITIONER/5TH ACCUSED

SIRAJUDDIN, S/O.SHAREEF, MILLUKARAN
VEETTIL, MANNALAMKUNNU KINAR, AKALAD DESOM,
PUNNAYOORKULAM VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA,
(SUB INSPECTOR OF POLICE, CHAVAKKAD POLICE
STATION, CRIME NO.93/1999)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7760 OF 2007 B

Dated this the 17th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 12th accused in a crime registered at the Chavakad Police Station. Investigation was completed. Final report was filed. Cognizance was taken. Co-accused were available and faced trial. They were all found not guilty and acquitted (except A1). The petitioner was not available for trial. The case against him has been split up. He is now arrayed as the 5th accused in C.C.213/05. Coercive processes have been issued against the petitioner. The petitioner apprehends imminent arrest.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned

Magistrate on merits, in accordance with law and expeditiously. The petitioner's marriage is scheduled to be taken place on 27.12.07. He shall surrender before the learned Magistrate immediately thereafter. Till then, the petitioner may not be arrested. His application may be directed to be considered on merits, in accordance with law and expeditiously, it is prayed.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George Vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

4. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of the case, there shall be a further direction that the petitioner shall not be arrested in execution of the warrant issued in C.C.213/05 by Judicial First Class Magistrate Court, Chavakad till 31.12.07. On or before that date, the petitioner must appear before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

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